Supreme Court, U.S.
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No. 89-37

In The Supreme Court of the United States October Term, 1988

TRUSTEES OF IRON WORKERS LOCAL 473 PENSION TRUST,

Petitioner,

vs.

ALLIED PRODUCTS CORPORATION,

Respondent.

On Petition For A Writ Of Certiorari To The United States Court Of Appeals For The Seventh Circuit

RESPONDENT'S BRIEF IN OPPOSITION

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QUESTION RESTATED

Whether an employer may be deemed to have completely withdrawn from a multiemployer pension plan, within the meaning of section 4203(a)(2) of the Employee Retirement Income Security Act, 29 U.S.C. §1383(a)(2), despite the fact that it has not permanently ceased all covered operations under the plan.

STATEMENT REQUIRED BY RULE 28.1

Respondent Allied Products Corporation is a Delaware corporation, with no parent company, subsidiary or affiliate.

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On Petition For A Writ Of Certiorari To The United States Court Of Appeals For The Seventh Circuit

RESPONDENT'S BRIEF IN OPPOSITION

COUNTERSTATEMENT OF THE CASE

ERISA Section 4203(a)(2) dictates that an employer completely withdraws from a multiemployer pension plan when the employer "permanently ceases all covered operations under the plan." 29 U.S.C. §1383(a). At issue is whether the Trustees of Ironworkers Local 473 Pension Trust properly assessed withdrawal liability against Steel Weldments Division of Allied Products Corporation, despite the fact that the Steel Weldments Division

had not permanently ceased all covered operations under the multiemployer pension plan.

The Trustees asserted that a complete withdrawal occurred during the plan year ending June 30, 1983, and assessed withdrawal liability against Allied Products Corporation in the amount of $559,108.57, based upon a determination of unfunded vested benefits as of June 30, *1982*.[1] From the outset, Allied Products Corporation has taken the position that a complete withdrawal occurred during the plan year ending June 30, 1984, when all covered operations permanently ceased. This meant that Allied Products Corporation's complete withdrawal liability should be determined as of June 30, *1983*, with the result that its complete withdrawal liability would be approximately $364,000, or $235,000 less than the Trustees' assessment.

STATEMENT OF FACTS

The Iron Workers Local 473 Pension Plan (the "Plan") requires participating Employers to contribute a specified sum to the Pension Trust for each hour worked by its participating employees. (App. 3a) Concomitantly, the Collective Bargaining Agreement executed by the Steel Weldments Division of Allied Products Corporation (the "Company") and Shopmen's Local Union No. 473 of the International Association of Bridge, Structural and Ornamental Iron Workers, AFL—CIO (the "Union") required contributions by the Company to the Pension Trust on the basis of a specific amount per hour worked by covered employees. (App. 3a)

On June 16, 1982, the Company informed the Union that the Company had "decided to permanently shut down and close the plant operations of Steel Weldments." (App. 4a) On July 2, 1982, the Company and the Union executed a Shutdown Agreement whereby they agreed to effectuate "the orderly and effective

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[1] The Multiemployer Pension Plan Amendments Act ("MPPAA") provides that withdrawal liability shall be determined as of the end of the plan year immediately preceding the plan year in which the withdrawal takes place. 29 U.S.C. §1391 (b)(2)(A). The Iron Workers Local 473 Pension Trust has a plan year that runs from July 1 through June 30.

phase-out of its Bedford Park, Illinois operations" and to continue the Collective Bargaining Agreement, "as long as any bargaining unit member remains employed." (App. 4a).

The Collective Bargaining Agreement covered "all production and maintenance employees of the Company . . . engaged in the fabrication of iron, steel, metal and other products, or in maintenance work in or about the Company's plant" and "work done by such production and maintenance employees." (App. 3a) Further, the Collective Bargaining Agreement required the Company to make contributions for all production *and* maintenance employees:

> *Pension Fund*
>
> (A) Commencing with the payroll week of May 1, 1979, . . . the Company agrees to pay to the Pension Trust Estate of Shopman's Local Union #473 Pension Fund (hereinafter referred to as the "Pension Fund") the sum of Sixty-three cents (63¢) for each hour worked by each employee to whom this agreement is applicable. * * *

Pursuant to the Collective Bargaining Agreement, the Company properly made all required contributions to the Pension Plan's Trust Fund throughout the 1982, 1983 *and* 1984 plan years. (App. 4a) Thus, the Company continued to make, and the Trustees continued to accept, contributions to the Pension Plan's Trust Fund on behalf of its covered employees well beyond June 30, 1983 – the date of the supposed complete withdrawal. (App. 5a)

The Company continuously employed individual members of the bargaining unit throughout calendar years 1982 and 1983. (App. 6a) The employees performed substantial bargaining unit work between December 1, 1982 and December 30, 1983. (App. 6a) These employees produced and shipped new parts, loaded and shipped unfinished parts, and processed and shipped trade fixtures, scrap, equipment and raw materials throughout the 1984 plan year. (App. 6a-15a) In August and September, 1983, for example, they performed production work on the shear press and brake press to machine seal retainers. (App. 6a) Concomitantly,

the Company also processed and filled six new purchase orders during the 1984 plan year. (App. 7a)

After June 30, 1983 – the date of the supposed complete withdrawal – the Company's employees also loaded and shipped 24 shipments of scrap and 43 shipments of trade fixtures. (App. 9a-13a) After the date of the supposed complete withdrawal, the Company's employees also loaded and shipped 99 shipments of parts in process. (App. 8a-15a) In the same time frame, the Company weighed, loaded and shipped approximately 360,000 pounds of raw materials to various purchasers or outlets. (App. 8a) Finally, the Company inventoried, processed and shipped 44 shipments of equipment and spare parts to other divisions of Allied Products Corporation during this period. (App. 13a-15a)

The Company's covered emplyees performed this multitude of production and shipping work, all of which constituted bargaining unit work. (App. 6a) Accordingly, the Company continued to make, and, and the Trustees continued to accept, Plan contributions for all of the work. (App. 5a)

On March 30, 1984, the Company sold the Bedford Park plant. (App. 21a) As of March 30, 1984, all of the Company's business activities and all covered operations at the Bedford Park plant ceased. (App. 21a) As of 5:00 p.m. on May 30, 1984, all members of the Union bargaining unit formerly employed by the Company at the Bedford Park plant, were terminated. (App. 21a)

The Trustees contend that the Company completely withdrew from the Pension Plan prior to June 30, 1983. The Trustees and the Company have stipulated that a partial withdrawal did not occur, and that the existence of a partial withdrawal is not an issue in this proceeding. (App. 15a)

REASONS FOR DENYING THE WRIT

I. THE SEVENTH CIRCUIT CORRECTLY CONSTRUED ERISA SECTION 4203(a)

The Seventh Circuit correctly concluded that the Company had not effected a complete withdrawal during the 1983 plan year within the meaning of ERISA Section 4203(a), due to the fact that the Company had not permanently ceased *all* covered operations as of June 30, 1983. So far as is relevant here, ERISA Section 4203(a) defines "complete withdrawal" as follows:

> Sec. 4203(a) For purposes of this part, a complete withdrawal from a multiemployer plan occurs when an employer-
>
> * * *
>
> (2) Permanently ceases all covered operations under the plan.

29 U.S.C. §1383(a)

ERISA Section 4203(a)(2) clearly dictates that two prerequisites must exist before there is a complete withdrawal: there must be a permanent cessation of covered operations under the plan, and the cessation must be total. There is nothing ambiguous about this language.

The Seventh Circuit correctly observed that statutory construction must begin with the language of the statute itself. *Touche, Ross & Co. v. Redington,* 422 U.S. 560, 567 (1979); *Ernst & Ernst v. Hochfelder,* 425 U.S. 185, 197 (1976). It is a fundamental precept of statutory construction that words should be given their common and ordinary meaning. *Ulane v. Eastern Airlines, Inc.,* 742 F.2d 1081, 1085 (7th Cir. 1984), *cert. denied,* 471 U.S. 1017 (1985).

The Seventh Circuit also properly noted that the common and accepted meaning of the word "all" is 100 percent. *Central States Southeast and Southwest Areas Pension Fund v. Belmont Trading Co.,* 610 F.Supp. 1505, 1510-1511 (N.D.Ind. 1985), *aff'd.,* 788 F.2d 428 (7th Cir. 1986). Webster's New Collegiate Dictionary (1981 ed.) defines "all" as "the whole amount or quantity of"

and "every member and individual component of." Similarly, the word "complete" – as used in the term "complete withdrawal" -- commonly means "total" or "absolute". Webster's New Collegiate Dictionary (1981 ed.)

Finally, the Seventh Circuit implicitly recognized that the legislative history of a statute may not compel a construction that is at variance with its plain language. See *Keuhner v. Irving Trust Co.*, 299 U.S. 455, 449 (1937). Nor can reports of legislative committees be considered for the purpose of creating an ambiguity when the language of the statute itself is clear. *Helvering v. City Bank Co.*, 296 U.S. 85, 89 (1935); *United States v. Missouri Pacific R. Co.*, 278 U.S. 269, 270 (1929); *Wisconsin R.R. Comm. v. C.B. & Q R.R. Co.*, 257 U.S. 563, 589 (1922). In the present case, nothing could be clearer than the language of the statute itself: a complete withdrawal means the permanent cessation of *all* covered operations.

In spite of the clear language of the statute itself, the Trustees argue that "all covered operations" cease if *virtually* all covered operations cease, relying on a passage from the legislative history. See H.R. Report 96-869 (I), 96th Cong., 2d Session, *reprinted in* 1980 U.S. Code Cong. & Ad. News 2918, 2941 (1980). The Seventh Circuit, however, rejected the Trustee's efforts to contradict the statutory wording with a snippet of legislative history, and found that the plain language of the statute renders the resort to legislative history unnecessary – and, indeed, unproductive. See *Meredith v. Bowen*, 833 F.2d 650, 654 (7th Cir. 1987). The Seventh Circuit correctly observed that a committee report or other legislative history usually reflects just one stage of the legislative process of compromise, which process consummates in the careful crafting of specific language.

Indeed, the careful draftsmanship of Congress is readily apparent in the language of the ERISA and MPPAA statutes. For example, while the statute uses the term "all" in the definition of a complete withdrawal, in several other places the statute qualifies the term "all" by using the phrase "substantially all." See 29 U.S.C. §1383(b)(1)(a), §1384(a)(3)(A), §1389(c), and §1405(a)(1). Obviously, Congress knew the difference between "all", "substantially all" and "virtually all", and opted for the unqualified "all" in 29 U.S.C. §1383(a)(2).

Under the proper construction of ERISA Section 4203(a), it is self-evident the Company did not effect a complete withdrawal until *after* June 30, 1983 — during the 1984 plan year. The simple and unavoidable fact is that the Company was engaged in a multitude of production, shipping and maintenance activity which required 1,910 hours of service by covered employees *after* June 30, 1983. (App. 4a) Consequently, the Seventh Circuit correctly concluded that the Company did not completely withdraw from the multiemployer pension plan.

II. THERE IS NO CONFLICT AMONG THE CIRCUIT COURTS OF APPEAL

Supreme Court Rule 17.1 provides that discretionary review is appropriate where a federal court of appeals has "rendered a decision in conflict with the decision of another federal court of appeals on the same matter***". Accordingly, the Supreme Court has consistently held that a writ of certiorari is typically warranted only where there is a "real and embarrassing conflict of opinion and authority between the Circuit Courts of Appeals." *Rice v. Sioux City, Memorial Park Cemetery*, 349 U.S. 70, 79 (1955). *See also National Labor Relations Board v. Pittsburgh Steamship Company*, 340 U.S. 498, 502 (1951).

The Seventh Circuit stands uncontradicted at the appellate level.[2] The only contrary authority is found in a small number of disparate District Court opinions. As a result, there does not exist a "real and embarrassing conflict of opinion" among the circuits, and no justification for the granting of a writ of certiorari.

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[2] In the Petition For Writ of Certiorari, the Trustees suggest that there exists an imminent conflict with the Third Circuit Court of Appeals, which was reviewing the ruling of *Crown Cork and Seal Company v. Central States Southeast and Southwest Areas Pension Fund*, No. 84 Civ. 5737, slip op. (E.D.Pa. Dec. 30, 1988). However, the Third Circuit Court of Appeals very recently reversed in part and affirmed in part the lower court ruling, and deferred the matter for arbitration. *Crown Cork and Seal Company v. Central States Southeast and Southwest Areas Pension Fund*, No. 89-1086, slip op. at 10 (3d Cir. July 14, 1989). Therefore, there is no imminent conflict at the appellate level.

III. CONTRARY DISTRICT COURT DECISIONS ARE DISTINGUISHABLE

All of the supposedly contrary precedent relied upon by the Trustees in support of their contention that the Company completely withdrew from the Pension Plan prior to June 30, 1983, are factually distinguishable. In all of the cases, the companies had terminated all of their production employees, ceased all production work and/or sold or closed their businesses prior to the date on which complete withdrawal was held to have occurred.

In *Connors v. Economy Building Systems*, 651 F.Supp. 849 (D.D.C. 1986), the court determined that the employer had effected a complete withdrawal on or before September 26, 1980. In *Connors*, it was undisputed that: (a) the employer finished work on the last project in August, 1980; (b) the employer did not employ any covered workers in September, 1980; (c) the employer employed only two "cleaning" employees for four days in October, 1980; (d) the employer had completed 99.5%-99.9% of all work prior to September 26, 1980. 651 F.Supp. at 853. The *Connors* court specifically noted that the two "cleaning" employees only performed basic maintenance work, and no production work. 651 F.Supp. at 854.

In *Textile Workers Pension Fund v. Standard Dye & Finishing Co.*, 607 F.Supp. 570 (S.D.N.Y. 1985), the court also concluded that the employer had completely withdrawn on or before September 26, 1980. The court noted that the employer corporation had dissolved, terminated production workers, liquidated all of its assets and begun the distribution of liquidating dividends to shareholders in June, 1980. 607 F.Supp. at 571. The court also noted that the employer corporation had already closed its plant and ceased *all* normal business operations in June, 1980. 607 F.Supp. at 571.

In *Speckman v. Barford Chevrolet Co.*, 535 F.Supp. 488 (E.D.Mo. 1982), the court determined that the employer, a Chevrolet automobile dealership, had completely withdrawn prior to April 29, 1980. It was undisputed that the dealership had sold back all new car inventory to the manufacturer by April 16, 1980. It was also uncontested that all post-April 16, 1980 sales involved

demonstrator models which were sold "in connection with the winding up of the dealership's affairs." 491 F.Supp. at 489. It was also undisputed that all but one employee had been terminated by April 28, 1980, and that the remaining single employee performed no work with relation to the sale of new cars — the normal business of the dealership.

In *F.H. Cobb Co. v. N.Y. State Teamster's Pension Fund*, 584 F.Supp. 1181 (N.D.N.Y. 1984), the court also concluded that the employer, a wholesaler of food and food-related items, had completely withdrawn prior to April 29, 1980. The court found that the employer had sold all of its store and warehouse leases and related assets by February 15, 1980, and had transferred all retail customers by March 9, 1980. The court also noted that the employer had terminated all production personnel by March 8, 1980.

In *ILGWU National Retirement Fund v. Weatherall Fashions, Inc.*, No. 84 Civ. 0772, slip op. (S.D.N.Y. Feb. 24, 1986), the court determined that the employer had effected a complete withdrawal due to the cessation of covered operations in December, 1981. The court observed that, subsequent to December, 1981, the company performed no contracted work, and retained only one employee. The court expressly noted that, while the company did not dissolve as a corporate entity for several years, the corporate offices were closed after December 8, 1981.

Finally, the Trustees seek support from the cases of *Combs v. Leishman*, 691 F.Supp. 424, 430-31 (D.D.C. 1988) and *Crown Cork and Seal Company v. Central States Southeast and Southwest Areas Pension Fund*, No. 84 Civ. 5737, slip op. (E.D.Pa. Dec. 30, 1988), *rev'd. in part and aff'd. in part*, ___F.2d___ (3d Cir. 1989). However, the *Combs* and *Crown Cork* decisions actually provide support for, and are consistent with, the Seventh Cirucit decision in this case. In *Combs v. Leishman*, 691 F.Supp. 424, 430-31 (D.D.C. 1988), the court expressly noted that the continual coal production of the employer, a coal auger firm, was in sharp contrast to the total cessation of production activity reflected in the *Speckman, Connors, ILGWU, Standard Dye* and *F.H. Cobb* cases. Relying upon the presence of production work — as opposed to mere maintenance or closure activity — the court found that a complete withdrawal did not occur until the

end of January 1981, at the time of the final contribution to the pension plan. In *Crown Cork and Seal Company v. Central States Southeast and Southwest Areas Pension Fund*, No. 84 Civ. 5737, slip op. (E.D.Pa. Dec. 30, 1988), *rev'd. in part and aff'd. in part*, ___F.2d___ (3d Cir. 1989), the Third Circuit very recently reversed the entry of judgment and deferred the matter for arbitration. As a result, the *Crown Cork* decision does not stand as a valid precedent on this issue. However, the *Crown Cork* opinions note that the initial finding of complete withdrawal liability was based on a complete cessation of production work as of September 26, 1980, and a management notification that the plant would close and cease operations as of that date. *Crown Cork and Seal Company v. Central States Southeast and Southwest Areas Pension Fund*, No. 84 Civ. 5737, slip op. (E.D.Pa. Dec. 30, 1988), *rev'd. in part and aff'd. in part*, ___F.2d___ (3d Cir. 1989).

In all of these cases, the employers did not perform *any* production activity or retail sales or distribution after the date of the alleged complete withdrawal. In every case, the employer retained employees, if any, for the sole purpose of closure and maintenance. In this case, after July 1, 1983 the Company performed significant production activity which involved the welding and machining of numerous steel welded parts. The manufacturing of steel welded parts constituted the Company's business activity that gave rise to its contributions to the Plan. Since an employer only ceases covered operations if it ceases the business activity that gave rise to contributions to the Plan, the Company did not cease covered operations prior to July 1, 1983.[3] See *Connors v. Economy Building Systems*, 651 F.Supp.

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[3] In addition, the Company performed substantial inventory processing, loading and shipping, as well as maintenance work. The inventory processing, loading and shipping was all a necessary part of the production and sale of steel welded parts. The Company could scarcely be expected to produce and sell steel welded parts, if it could not inventory, load and ship those parts. The Company's employees performed substantial amounts of inventory processing, loading and shipping, which also constituted the business activity that gave rise to the Company's contributions to the Plan in the first place. As a result, these activities also constituted "covered operations."

849 (D.D.C. 1986); *Speckman v. Barford Chevrolet Co.*, 535 F.Supp. 488 (E.D.Mo. 1982).

Thus, the Trustees' authorities are inapposite: in each case, all production or retail activity had completely ceased prior to the date of the alleged withdrawal. In this case, it is undisputed that appreciable production, processing and shipping activities continued during the course of the phaseout period after July 1, 1983.[4] Consequently, there is no true conflict between the Seventh Circuit decision and the supposedly contrary district court precedent.

IV. THE SEVENTH CIRUCIT DECISION REPRESENTS THE ONLY FAIR AND PRACTICAL RESULT

The Seventh Circuit's ruling was based upon the substantial production, shipping and maintenance work performed by covered employees during the 1984 work plan year — subsequent to the date of the supposed complete withdrawal. This approach is fair and practical, as well as legally correct.

On the other hand, the Trustees' approach is unworkable and would spawn unfair, unpredictable and arbitrary consequences. For example, the Trustees contend that a complete withdrawal occurs upon the "virtual cessation" of covered operations. Although the Trustees seek support from the House Report reference to a "98 percent reduction" of covered operations, there is certainly no statutory basis for fixing a specific percentage as the benchmark for complete withdrawal. Once the statutory mandate of a complete cessation of *all* covered operations is discarded, the Trustees may just as well choose a 95 or 97 percent reduction as justification for the assessment of complete withdrawal liability.

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[4] Significantly, the Trustees have not — and cannot — allege any bad faith on the part of the Company. There has been no allegation that the Company has made any effort to circumvent its MPPAA obligations. The Trustees have not contended that the Company's production, processing, shipping and maintenance activities were a facade. To the contrary, the Trustees have stipulated to the nature and extent of the Company's production, processing, shipping and maintenance work.

Equally problematic is the fact that the legislative history provides no guidance for the methodology of assessing a "virtual cessation" of covered operations. For example, in calculating the percentage reduction of covered operations (*e.g.*, 98 percent) which will justify the assessment of complete withdrawal liability, should the Trustees perform the calculation on the basis of a 98 percent reduction in contributions over the course of the past year of covered operations, or a 98 percent reduction in contributions as compared to the average contributions over the past ten years?

This case illustrates the arbitrariness of the Trustees' position. For example, if a 98 percent reduction in contributions over the prior plan year were held to constitute a complete withdrawal, this did not occur until March 30, 1984. (App. 4a-5a) The contributions made by the Company during the 1983 plan year ($10,338.56) were 12.98 percent of its contributions during the 1982 plan year ($79,669.91) and 8.3 percent of its contributions during the 1981 plan year ($125,594.12). (App. 4a-5a) Even during the 6-month period from July 1 to December 30, 1983 — the first six months of the plan year ending June 30, 1984, — the average monthly contribution ($238.75) was 3.6 percent of the average monthly contribuiton for the 1982 plan year ($79,669.91 ÷ 12 = $6,639.16). (App. 4a-5a)

Thus, the Trustees effectively contend that, in spite of the clear language of the statute to the contrary, a decline in contributions of somewhere between 87 percent to 96 percent constitutes a complete withdrawal. There is no basis for this position in the statute, especially when the statute already specifically provides for a partial withdrawal, *i.e.*, a 70 percent decline in contributions for the past three testing years. 29 U.S.C. §1385. Put simply, the Trustees seek to impose a third, hybrid category onto the statutory framework — a "virtually complete withdrawal" — which they apparently contend falls somewhere between a "partial withdrawal" and a "complete withdrawal", but still imposes the harsh liability of a complete withdrawal

on the employer. The statute is not susceptible of such an arbitrary interpretation.[5]

Finally, it is unfair to include the Pension Plan asset valuation based upon the low point (August, 1982) in the stock market's cycle without also giving the Company the benefit of the valuation based upon the high point (June, 1983), under the facts of this case. The Trustees' precipitant action in declaring that the Company had completely withdrawn from the Pension Plan during the plan year ending June 30, 1983, long before either of the events specified in ERISA Section 4203(a) as constituting a complete withdrawal had occurred, deprived the Company of the benefit of this increase in the value of the Pension Plan's assets to which it was entitled. If the Company were required to pay the additional $235,000 that the Trustees assessed against the Company, it would result in a windfall of that amount to which the Pension Plan is not entitled.

CONCLUSION

For the foregoing reasons, the Petition for Writ of Ceriorari should be denied.

Respectfully submitted,

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Dated: August 4, 1989

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[5] As Amicus Curiae, the Pension Benefit Guaranty Corporation also argued that the Trustees' position was contrary to the statutory language, the legislative scheme and the legislative history, and contended that the Trustees' position, if accepted, would lead the judiciary down a "slippery slope" of arbitrary analysis and inconsistent results.

APPENDIX

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

TRUSTEES OF IRON WORKERS
LOCAL 473 PENSION TRUST,
Plaintiffs,

v.

No. 84 C 5329

ALLIED PRODUCTS CORPORATION,
Defendant.

DEFENDANT'S STATEMENT OF UNDISPUTED MATERIAL FACTS

Defendant Allied Products Corporation, by its attorneys Gardner, Carton & Douglas, submits this Statement of Undisputed Material Facts pursuant to local Rule 12(e), in support of Defendant's Motion For Summary Judgment.

1. On October 10, 1984, Plaintiff filed its Motion For Summary Judgment, with an accompanying Statement of Undisputed Material Facts.

2. Plaintiff's Statement of Undisputed Material Facts presents a slanted statement of certain facts and omits numerous other facts which are necessary for this Court's review and resolution of the relevant issues.

3. The parties executed a Stipulation Of Facts and a Supplemental Stipulation Of Facts which were filed in the arbitration proceeding as the parties' agreed statement of the facts. Copies of the Stipulation of Facts and Supplemental Stipulation of Facts are attached as Exhibits "A" and "B."[1]

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[1] The exhibits to the Stipulation of Facts are voluminous in nature, and are already contained in the record of proceedings heretofore filed with the Court. As a result, these exhibits have not been attached hereto.

4. In addition, during the course of the arbitration proceeding, Defendant Allied Products Corporation filed the Affidavit of David B. Corwine, attesting to the cessation of all covered operations under the plan and the termination of all members of the bargaining unit by Steel Weldments Division when it sold its plant on March 30, 1984. There is no dispute concerning the facts set forth in the Corwine Affidavit. See Plaintiff's Statement of Undisputed Material Facts, ¶9. A copy of the Affidavit of David B. Corwine is attached hereto as Exhibit "C".

5. The Stipulation of Facts, the Supplemental Stipulation of Facts and the Affidavit of David B. Corwine provide the most accurate and thorough recitation of the undisputed material facts, and constitute the most appropriate statement of facts for this Court's review and resolution of the relevant issues.

6. Therefore, Defendant Allied Products Corporation hereby incorporates the Stipulation of Facts, the Supplemental Stipulation of Facts and the Affidavit of David B. Corwine as its Counter-Statement of Undisputed Material Facts.

Respectfully submitted,

ALLIED PRODUCTS CORPORATION

By: /s/ _____
One of its attorneys

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EXHIBIT "A"

IN ARBITRATION
UNDER THE MULTIEMPLOYER PENSION PLAN ARBITRATION RULES OF THE AMERICAN ARBITRATION ASSOCIATION

In the Matter of the Arbitration Between
STEEL WELDMENTS DIVISION
of ALLIED PRODUCTS CORPORATION,
Claimant,

and

TRUSTEES OF IRON WORKERS
LOCAL 473 PENSION TRUST,
Respondents.

File No. 51 62
0004 83
L MEPPA

STIPULATION OF FACTS

1. The Iron Workers Local 473 Pension Plan (the "Plan") was adopted on May 1, 1959 and, as most recently amended and restated as of May 1, 1980, is attached hereto as Exhibit A. The Pension Plan Year runs from July 1 through June 30.

2. For many years, the Company and Shopmen's Local Union No. 473 of the International Association of Bridge, Structural and Ornamental Iron Workers, AFL-CIO (the "Union") have been parties to collective bargaining agreements covering production and maintenance employees at the Company's plant in in Bedford Park, Illinois and requiring, among other things, contributions by the Company to the Plan on the basis of specified cents per hour worked by covered employees.

3. Most recently, the Company and the Union have been parties to a contract effective as of May 1, 1979 (attached hereto as Exhibit B-1) and a contract effective May 1, 1982 (attached hereto as Exhibit B-2).

4. A Contract proposal, signed by the parties and indicating the differences between the 1979 and 1982 contracts, is attached hereto as Exhibit C. That proposal was signed on May 26, 1982

and the 1982 Contract was executed in early June 1982. At the time the 1982 Contract was executed, the Company had not advised the Union of any intent to permanently close the plant.

5. On June 16, 1982, the Company informed the Union by letter that the Company had "decided to permanently shut down and close the plant operations of Steel Weldments" (Exhibit D).

6. On July 2, 1982, the Company and the Union executed a Shutdown and Severance Pay Agreement "concerning the effects of the Company's decision to cease production at its manufacturing facility . . .," which is attached hereto as Exhibit E.

7. The Company has properly made all required contributions to the Pension Plan's Trust Fund up to the present date. The following schedule is a compendium of Company contributions and participant hours for each plan year since 1973:

Plan Year Ending 6/30:	Participant Hours	Contributions
1973	317,889.00	$ 82,495.47
1974	399,567.00	125,130.78
1975	424,527.80	161,101.05
1976	249,798.75	112,473.72
1977	264,565.75	136,683.91
1978	264,411.75	147,588.41
1979	350,475.25	209,275.01
1980	340,786.00	216,897.41
1981	185,868.50	125,594.12
1982	111,573.00	79,669.91
1983	13,854.75	10,338.56
1984 (through December 1983)	1,910.00	1,432.50

8. A week-by-week summary prepared by the Company and detailing the number of employees in the employ of the Company from July 1982 up to and including July 1983 is attached hereto as Exhibit F.

9. Since July 1, 1982 the Company has continued to make, and the Trustees have continued to accept, contributions to the Pension Plan's Trust Fund on behalf of its covered employees at the contribution rate set forth in the 1982 Contract. The following schedule is a summary of participant hours and Company contributions for the period from July 1982 through December 1983:

Month	Participant Hours	Contributions
July, 1982	7,992.75	$ 5, 942.06
August, 1982	1,844.00	1,383.00
September, 1982	710.00	532.50
October, 1982	488.00	366.00
November, 1982	436.75	327.56
December, 1982	335.25	251.44
January, 1983	160.00	120.00
February, 1983	244.00	183.00
March, 1983	580.00	435.00
April, 1983	384.00	288.00
May, 1983	320.00	240.00
June, 1983	360.00	270.00
July , 1983	300.00	225.00
August, 1983	400.00	300.00
September, 1983	306.00	229.50
October, 1983	312.00	234.00
November, 1983	368.00	276.00
December, 1983	224.00	168.00

The Employer Monthly Remittance Reports for the period from July 1982 through December 1983 are attached hereto as Exhibit G.

10. Despite the Company's decision to permanently cease operations at Bedford Park, up to the present time it has continuously employed individual members of the bargaining unit as described below. Employees scheduled to work since December 1, 1982 were as follows:

Name	Job Classification	Period
Charles Hearod	Fork Lift Operator	Terminated in December 1982; recalled in late February 1983 and continuously employed thereafter.
Donald Steele	Maintenance Man	Has worked continuously to date.
Daniel Jones	Inventory Clerk	Terminated in December 1982.
Lester Banks	Fitter/Welder	Terminated prior to December 1, 1982; recalled in late February 1983 and terminated in mid-April 1983.

Banks was called back to work for the purpose of welding and finishing certain heat exchangers which were pre-assembled but not finished. Hearod and Steele assisted in the finishing work and also worked the shear press and brake press to machine certain seal retainers in August and/or September 1983 for approximately ten hours each. In June 1983, these employees also performed up to 16 hours of welding on exhaust duct assembly units. All other work performed by these employees was as follows: (a) cleaning and maintenance work and (b) the identification, weighing and shipment of parts, scrap, raw materials and fixtures in inventory. These activities all constitute bargaining unit work. At the present time, all machinery has been removed from the plant.

11. Since February 1983, the Company has received 7 purchase orders for shipment of parts. The Company has received, processed and filled the following purchase orders:

Date of Purchase Order	Customer	Part Ordered	Date Shipped
(1) 2/18/83	Electro Motive Div. (General Motors Corp.)	33 Heat Exchangers	3/31/83 4/20/83
(2) 6/21/83	Electro Motive Div. (General Motors Corp.)	20 Exhaust Duct Assembly Units	9/12/83 9/22/83 10/06/83 10/17/83
(3) 8/05/83	Electro Motive Div. (General Motors Corp.)	Seal Retainers	8/19/83 10/06/83
(4) 8/05/83	Electro Motive Div. (General Motors Corp.)	Seal Retainers	8/19/83
(5) 8/16/83	Diesel Division (General Motors of Canada)	100 Hose Stems	10/06/83
(6) 9/22/83	Diesel Division (General Motors of Canada)	120 Seal Retainers	9/30/83
(7) 9/22/83	Diesel Division (General Motors of Canada)	133 Retainers-EMS 57	9/30/83

The purchase orders, production releases, shipping memos and invoices documenting the foregoing fabrication and production are attached hereto as Exhibits H-1 through H-7.

12. In addition, the Company has a substantial amount of raw materials inventory, which is summarized in Exhibit I-1 and I-2. This raw material inventory has required processing as part of the phase-out operation. Specifically, all such raw material inventory has had to be identified, weighed, loaded and shipped to various purchasers or outlets. The amount and value of the raw material inventory is set forth in the chart below:

Date of Inventory	Weight of Raw Material	Value of Raw Material
11/20/82	721,816 lbs.	$172,181.85
12/15/83	359,171 lbs.	———

Thus, in addition to the fabrication of new parts, the Company's employees had been engaged in the identification, weighing and shipment of 362,645 lbs. of raw material inventory between the dates of November 20, 1982 and December 15, 1983. There still remains 359,171 lbs. of raw material and inventory to be processed or shipped as part of the Company's phase-out operation.

13. In addition, as of September 1982, the Company possessed an inventory of 53 finished and unfinished parts possessing a fair market value of $79,455.23. At the present time, the Company possesses an inventory of 40 finished and unfinished parts possessing a fair market value of $52,978.02. In the intervening period from September 1982 to December 1983, the Company assigned it employees, at various times, to package and ship those parts. Summaries of the parts inventories as of September 1982 and December 1983, respectively, are attached hereto as Exhibits J-1 and J-2.

14. Since July 1982, the Company has been in possession of a substantial inventory of trade "fixtures" which is summarized in Exhibit K. According to the custom and usage of the welding industry, a "fixture" is a durable casement or tooling device used in the mass fabrication of steel welded parts. Many of these trade fixtures have been identified, loaded and shipped to various purchasers. Seventeen fixtures remain to be shipped at the Bedford Part plant.

15. Since July 1982, the Company has identified, loaded and shipped numerous items of scrap, parts and fixtures. The following schedule denotes the scrap, fixtures and parts in process which were shipped on the following dates:

Shipping Date	Shipment	Shipment Memo
07/01/82	Parts	C36357
07/02/82	Parts	C36371
07/02/82	Parts	C36375
07/07/82	Parts	C36380
07/07/82	Scrap	C36377
07/13/82	Scrap	C36393
07/13/82	Parts	C36391
07/13/82	Scrap	C36392
07/15/82	Parts	C36394
07/16/82	Parts	C36403
07/19/82	Parts	C36405
07/20/82	Scrap	C36407
07/20/82	Scrap	C36408
07/20/82	Parts	C36409
07/21/82	Parts	C36410
07/22/82	Parts	C36426
07/26/82	Parts	C36427
07/27/82	Scrap	C36435
07/27/82	Scrap	C36434
07/27/82	Fixtures	C36428
07/27/82	Parts	C36429
07/27/82	Parts	C36430
07/27/82	Parts	C36432

Shipping Date	Shipment	Shipping Memo
07/27/82	Parts	C36433
07/28/82	Parts	C36437
07/28/82	Parts	C36436
07/29/82	Parts	C36438
07/29/82	Parts	C36439
07/29/82	Parts	C36440
07/29/82	Parts	C36441
07/30/82	Parts	C36443
08/02/82	Parts	C36451
08/03/82	Parts	C36453
08/03/82	Parts	C36454
08/03/82	Parts	C36452
08/04/82	Parts	C36467
08/04/82	Parts	C36463
08/04/82	Parts	C36460
08/05/82	Parts	C36461
08/05/82	Parts	C36457
08/05/82	Parts	C36471
08/05/82	Parts	C36470
08/05/82	Scrap	C36472
08/05/82	Scrap	C36473
08/05/82	Parts	C36466
08/05/82	Parts	C36465
08/05/82	Parts	C36464
08/05/82	Parts	C36462
08/06/82	Parts	C36476
08/06/82	Parts	C36481
08/06/82	Scrap	C36479
08/06/82	Parts	C36475
08/06/82	Parts	C36477
08/06/82	Parts	C36482
08/06/82	Parts	C36480
08/09/82	Scrap	C36483
08/10/82	Parts	C36488
08/10/82	Fixtures	C36487
08/10/82	Parts	C36484
08/10/82	Parts	C36486

Shipping Date	Shipment	Shipping Memo
08/10/82	Scrap	C36485
08/11/82	Parts	C36489
08/11/82	Fixtures	C36495
08/11/82	Parts	C36494
08/12/82	Scrap	C36492
08/12/82	Scrap	C36493
08/13/82	Parts	C36498
08/13/82	Parts	C36501
08/13/82	Parts	C36500
08/18/82	Parts	C36504
08/26/82	Fixtures	C36516
08/27/82	Parts	C36509
08/30/82	Parts	C36525
09/03/82	Parts	C36531
09/09/82	Parts	C36539
09/15/82	Parts	C36597
09/16/82	Fixtures	C36598
09/16/82	Parts	C36596
09/17/82	Parts	C36595
10/08/82	Scrap	C00004
10/12/82	Scrap	C00006
10/29/82	Fixtures	C00011
10/29/82	Scrap	C00012
11/03/82	Parts	C00019
11/03/82	Parts	C00018
11/03/82	Parts	C00020
11/08/82	Parts	C00021
11/19/82	Parts	C00025
11/19/82	Scrap	C00022
11/19/82	Scrap	C00024
11/19/82	Scrap	C00023
11/21/82	Scrap	C00027
11/23/82	Scrap	C00026
11/29/82	Parts	C00028
11/30/82	Parts	C00031
12/01/82	Parts	C00033
12/01/82	Parts	C00032
12/02/82	Parts	C00035

Shipping Date	Shipment	Shipping Memo
12/08/82	Fixtures	C00036
12/13/82	Fixtures	C00037
12/17/82	Parts	C00038
12/17/82	Parts	C00039
01/04/83	Fixtures	C00041
01/04/83	Parts	C00040
01/10/83	Parts	C00042
01/11/83	Parts	C00043
01/12/83	Parts	C36588
01/14/83	Parts	C36544
01/18/83	Parts	C36547
01/21/83	Parts	C36551
01/21/83	Parts	C36548
01/28/83	Parts	C36555
01/28/83	Parts	C36554
02/15/83	Parts	C36553
02/18/83	Fixtures	C36558
02/18/83	Parts	C36559
02/25/83	Parts	C36560
02/28/83	Parts	C36561
03/02/82	Parts	C36563
03/14/83	Parts	C36564
03/15/83	Parts	C36565
03/22/83	Fixtures	C36566
03/22/83	Fixtures	C36567
03/31/83	Parts	C36569
04/20/83	Fixtures	C36574
04/22/83	Fixtures	C36573
04/28/83	Parts	C36576
04/28/83	Fixtures	C36575
04/29/83	Scrap	C36577
05/03/83	Fixtures	C36579
05/04/83	Fixtures	C36578
05/09/83	Fixtures	C00049
05/11/83	Fixtures	C36580
05/12/83	Fixtures	C36581
05/16/83	Fixtures	C36582
05/16/83	Fixtures	C00049

Shipping Date	Shipment	Shipping Memo
05/17/83	Fixtures	C00050
05/18/83	Fixtures	C00051
05/19/83	Fixtures	C00052
05/20/83	Fixtures	C00053
05/23/83	Fixtures	C00054
05/24/83	Fixtures	C00055
05/25/83	Fixtures	C00056
05/26/83	Fixtures	C00057
05/27/83	Fixtures	C00058
05/27/83	Fixtures	C00059
06/09/83	Fixtures	C00064
06/13/83	Parts	C00067
06/13/83	Parts	C00066
06/20/83	Fixtures	C00068
06/23/83	Fixtures	C00069
06/29/83	Fixtures	C00070
07/05/83	Fixtures	C00071
07/11/83	Fixtures	C00089
07/13/83	Parts	C00097
07/15/83	Fixtures	C00098
07/18/83	Parts	C00099
07/21/83	Fixtures	C00100
08/03/83	Parts	C00103
08/05/83	Fixtures	C00102
08/11/83	Fixtures	C00104
08/22/83	Fixtures	C00107
08/31/83	Parts	C00108
10/10/83	Scrap	C00123
11/09/83	Parts	C00126
12/16/83	Parts	C00130

The shipping Memos documenting these shipments are attached hereto as Exhibit L.

16. Since July 1982, the Company has, at various times, assigned its employees to identify, load and ship a variety of equipment and miscellaneous parts to other divisions of Allied Products Corporation. The following schedule sets forth the

materials shipped to other divisions of Allied Products Corporation in the period from July 1982 to December 1983:

Shipping Date	Shipment	Shipping Memo
10/29/82	Parts	C00013
12/01/82	Parts	C00034
02/11/83	Parts	C36556
02/11/83	Parts	C36557
04/15/83	Parts	C36570
05/12/83	Parts	C36584
05/12/83	Parts	C36585
05/12/83	Parts	C36583
05/12/83	Parts	C36586
06/01/83	Parts	C36560
06/01/83	Parts	C00061
06/06/83	Parts	C00063
06/15/83	Parts	C00065
07/21/83	Parts	C00101
07/21/83	Parts	C00072
07/21/83	Parts	C00073
07/21/83	Parts	C00074
07/21/83	Parts	C00075
07/21/83	Parts	C00076
07/21/83	Parts	C00077
07/21/83	Parts	C00078
07/21/83	Parts	C00079
07/21/83	Parts	C00080
07/21/83	Parts	C00081
07/21/83	Parts	C00082
07/21/83	Parts	C00083
07/21/83	Parts	C00084
07/21/83	Parts	C00086
07/21/83	Parts	C00087
07/21/83	Parts	C00088
07/21/83	Parts	C00090
07/21/83	Parts	C00091
07/21/83	Parts	C00092
07/21/83	Parts	C00094
07/21/83	Parts	C00095

Shipping Date	Shipment	Shipping Memo
07/21/83	Parts	C00096
09/09/83	Parts	C00114
09/09/83	Parts	C00109
10/25/83	Parts	C00124
10/31/83	Parts	C00113
10/31/83	Parts	C00125
11/30/83	Parts	C00127
12/05/83	Parts	C00129
12/05/83	Parts	C00128

The Shipping Memos documenting these shipments are attached hereto as Exhibit M.

17. On November 15, 1982, the Trustees of the Iron Workers Local 473 Pension Trust (the "Trustees"), administrator and named fiduciary of the Plan, sent to the Company a notice of multiemployer plan withdrawal liability, a demand for payment and a worksheet summarizing the liability computation based on their determination that the Company had withdrawn after July 1, 1982 (Exhibit N). This assessment of withdrawal liability was based on a valuation of the vested benefits of $27,495.419; the actuarial value of assets of the Pension Trust of $20,204,418; and the resulting unfunded vested benefits of $7,291,001, all as of June 30, 1982. The demand was for $559,108.57, and stated the entire amount was due by January 1, 1983. Alternatively, the Trustees permitted the Company to make 27 monthly installments of $23,791.33 and a 28th installment of $7,495.81, beginning January 1, 1983. The Trustees have not assessed withdrawal liability against any other employer on the basis of withdrawals occurring during the Plan Year ended June 30, 1983.

18. The Trustees have determined that the Company has completely withdrawn from the Pension Plan; the Trustees have not contended that the Company has partially withdrawn from the Pension Plan. To the contrary, the Trustees and the Company have stipulated that a partial withdrawal has not occurred and that the existence of a partial withdrawal is not an issue in this arbitration.

19. The Trustees' demand for payment stated that payment by the Company must be made on a lump sum or monthly basis, as opposed to a quarterly basis. The Trustees decided to use a monthly, rather than quarterly, installment payment method at their December 4, 1980 meeting. At their January 28, 1982 meeting, the Trustees approved a demand made against another employer, using a monthly rather than quarterly payment method. However, the written minutes of these meetings do not specifically refer to the matter of monthly vs. quarterly installments. The only formal resolution adopted with respect to withdrawal liability at these meetings was the resolution, attached hereto as Exhibit X, adopted at the December 4, 1980 meeting. Prior to their assessment of withdrawal liability, the Trustees had never given notice to the Company of the adoption of a plan rule requiring payment of assessed withdrawal liability on a lump sum or monthly basis. Prior to November 15, 1982, the Company did not request any such information from the Trustees.

20. The Company on January 5, 1983 received a notice from the Trustees of the Plan that its initial monthly liability payment of $23,791.33 was overdue, and that the payment must be submitted within 60 days to prevent a default, which would cause the entire $559,108.57 liability to become immediately due and payable (Exhibit 0-1). The Company made its first three installment payments before March 7, 1983, and has timely submitted a total of nine monthly payments through September 1, 1983. On December 21, 1983 the Company and the Trustees executed an agreement providing, among other things, that the Company is not required to submit further monthly payments during the pendency of this arbitration. This agreement is attached hereto as Exhibit 0-2.

21. On February 14, 1983, the Company submitted a request for review, attached as Exhibit P, pursuant to Section 4219(b)(2)(A) of the Employee Retirement Income Security Act as amended ("ERISA").

22. On February 16, 1983, on behalf of the Union, Donald Urbauer, who is also a Trustee, sent to the Company notice of its desire to terminate the collective bargaining agreement and engage in negotiations toward a new agreement. A copy of the

Union's notification is attached hereto as Exhibit Q.

23. A supplement to the February 14, 1983 request for review was submitted by the Company to the Trustees on June 15, 1983 (Exhibit R).

24. The Trustees submitted their response to the February 14, 1983 request for review on June 17, 1983 (Exhibit S). The Trustees concluded that the November 15, 1982 notice and demand should stand without change.

25. On December 9, 1983, at the Company's request, the Trustees provided the Company with a hypothetical calculation of withdrawal liability as of June 20, 1983 based upon the assumption of a complete withdrawal by the Company during the Plan Year ending June 30, 1983 (Exhibit T). This calculation was based on a valuation of the vested benefits of $28,226,263; the actuarial value of assets of the Pension Trust of $24,459,997; and the resulting unfunded vested benefits of $3,766,266, all as of June 30, 1983.

26. Arbitration herein was initiated on August 10, 1983 by the Company's filing of a demand for arbitration (Exhibit U) and the parties' submission agreement (Exhibit V). On August 12, 1983, the Trustees filed their Answering Statement (Exhibit W). On September 23, 1983, the Honorable Harold E. Dreyer was duly appointed as Arbitrator by the American Arbitration Association.

27. At all relevant times, the Trustees were as follows: Union Trustees Donald Urbauer, Richard Carlson, Eugene Moore and Salvador Campos and Employer Trustees Barney Tokarsky, Raymond Friedkin, Al Lorenz and Anthony Nutini. All of the Union Trustees and some or all of the Employer Trustees are participants in the Plan. Urbauer, Carlson and Moore were officials of the Union. Campos is a union member who works in a non-supervisory job for a company which contributes to the Plan. Friedkin, Lorenz and Nutini are managerial employees of companies which contribute to the Plan. Tokarsky is retired but was once a managerial employee of a company which contributed to the Plan before it was sold to another contributing employer.

28. The attached Exhibits are incorporated by reference herein as if fully set forth herein and are a part of the record before the Arbitrator.

29. By entering into this stipulation, the parties agree that the foregoing facts are undisputed, without prejudice to any objection or argument which either party may make as to the materiality or probative weight of such facts. The parties have entered this stipulation in lieu of an evidentiary hearing.

30. Both parties have requested, among other things, an award of attorneys' fees and costs, which requests are pending before the Arbitrator. The parties agree that, if the Arbitrator awards such fees and costs further evidence may be taken and a supplemental award may be rendered, if necessary, as to the amount thereof.

By: /s/
One of the Attorneys for
STEEL WELDMENTS DIVISION of
ALLIED PRODUCTS CORPORATION

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312/726-2452

By: /s/
One of the Attorneys for
TRUSTEES OF IRON WORKERS
LOCAL 473 PENSION TRUST

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& KAMMHOLZ
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Suite 3000
Chicago, IL 60603
312/781-2200

EXHIBIT "B"

IN ARBITRATION
UNDER THE MULTIEMPLOYER PENSION PLAN
ARBITRATION RULES OF THE AMERICAN
ARBITRATION ASSOCIATION

In the Matter of the Arbitration Between
STEEL WELDMENTS DIVISION
of ALLIED PRODUCTS CORPORATION,
Claimant,

File No.

and

TRUSTEES OF IRON WORKERS
LOCAL 473 PENSION TRUST,
Respondents.

SUPPLEMENTAL STIPULATION OF FACTS

Paragraph 22 of the parties' Stipulation of Facts filed January 11, 1984 is hereby supplemented by adding the following additional facts:

Shortly after February 16, 1983, Urbauer contacted Company official Eugene Ahner to arrange for negotiations. Ahner stated that the Company would soon complete the shutdown of the plant and that he saw no need for a new agreement. Urbauer stated that, in negotiations with other employers, the Union was seeking an $0.11 per hour increase in health and welfare contributions and no other changes. He asked Ahner to pay the $0.11 increase, effective May 1, 1983. Ahner later agreed to this and the Company has paid the increased contribution rate. Thereafter the parties did not negotiate further and did not execute a new collective bargaining agreement. However, the Company and the Union continued to honor the terms of the collective bargaining agreement executed by the parties on May

1, 1982, with the exception of the increased health and welfare contributions.

By: /s/
One of the Attorneys for
STEEL WELDMENTS DIVISION of
ALLIED PRODUCTS CORPORATION

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Suite 3200
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(312) 726-2452

By: /s/
One of the Attorneys for
TRUSTEES OF IRON WORKERS
LOCAL 473 PENSION TRUST

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KAMMHOLZ
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Chicago, Illinois 60603
(312) 781-2200

EXHIBIT "C"

IN ARBITRATION
UNDER THE MULTIEMPLOYER PENSION PLAN
ARBITRATION RULES OF THE AMERICAN
ARBITRATION ASSOCIATION

In the Matter of the Arbitration Between
STEEL WELDMENTS DIVISION
of ALLIED PRODUCTS CORPORATION,
Claimant, File No.

and

TRUSTEES OF IRON WORKERS
LOCAL 473 PENSION TRUST,
Respondents.

AFFIDAVIT OF DAVID B. CORWINE

STATE OF ILLINOIS
ss
COUNTY OF COOK

David B. Corwine, being first duly sworn upon oath, deposes and states as follows:

1. I am General Counsel of Allied Products Corporation.

2. The Steel Weldments Division plant located at 5631 W. 65th Street, Chicago, Illinois has been sold. The real estate sale transaction was closed on March 30, 1984, and title to the subject real estate was conveyed to the purchaser on that date.

3. As of March 30, 1984, all Steel Weldments Division's business activity and all covered operations ceased.

4. As of 5:00 p.m. on March 30, 1984, all members of the bargaining unit formerly employed by Steel Weldments Division were terminated.

5. I have testified to the foregoing facts from personal knowledge and would so testify if called as a witness.

/s/ _____

SUBSCRIBED and SWORN
to before me this
__2nd__ day of __April,__
1984.

/s/ _____
Notary Public